

REMARKS

Summary

Claims 1-7 were pending and all of the claims were rejected in the Office Action. The Applicants have carefully considered the references and the reasons for rejection advanced by the Examiner and respectfully traverse the rejections in view of the discussion presented below. As the Applicants' response to the previous Office action was not rebutted by the Examiner, the Applicants are entitled to a presumption that the traverse presented overcame the rejections based on the previously cited art. The Applicants respectfully call attention to MPEP 707.07(g). The Applicants reiterate those aspects of the previous response which address the references already considered.

Claim Rejections

35 U.S.C §103 (a)

Claims 1-2, and 4-7 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Nantz et al. (US 6,647,773; "Nantz") in view of Imao et al. (6,505,507; "Imao"), and Lin (US 6,259,362; "Lin"). The Applicants respectfully traverse the rejection on the basis that a *prima facie* case of obviousness has not been made out.

Claim 1 recites, *inter alia*, that the vehicle-installed device comprises a recording section for recording data of any abnormality in the air pressure of the tire, and the vehicle-installed device searches for any abnormality data from the recording section when the vehicle-installed device communicates with the portable device, so that, when there is abnormality data, a tire air pressure abnormality signal is transmitted to the portable device.

The portions of Imao cited by the Examiner (col. 3-4, lines 48-25, and col. 4-6 lines 25-18) teach a vehicle-mounted device that has a display where "when any tire is abnormal, the operator is warned by the display 23 [in the vehicle]." (col 4, lines 21-22). The data that is transmitted from the vehicle mounted device 4 to the external communications apparatus 5 includes "[t]he set of data associated with each transmitter 3, [which] includes at least a registered tire ID code, history data corresponding to that registered tire ID code and the initial registration date for the registered tire ID code." (col 4, lines 38-43). Such transmissions must be first enabled by a worker. Nothing in

Imao teaches or suggests that the data transmitted includes abnormality data. An assertion that such data could be transmitted constitutes hindsight.

The objective of the data transmission is to collect historical data on a fleet of vehicles such as taxis, trucks or busses. (col 4, lines 55-57). Hence, nothing in the portions of the reference cited teaches or suggests the arrangement of Claim 1 that when there is abnormality data, a tire air pressure abnormality signal is transmitted to the portable device.

The Applicants respectfully submit that the Examiner has improperly used hindsight to read the teachings of the present Claim 1 into the references. "Obviousness may not be established using hindsight or in view of the teachings or suggestions of the inventor." *Para-Ordnance Mfg. v. SGS Importers Int'l*, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995) (citing *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1551, 1553, 220 USPQ 303, 311, 312-13 (Fed. Cir. 1983)). "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification."

As the combination of references does not teach all of the elements of Claim 1, nor is there a reason to combine the references, the Applicants respectfully submit that the Examiner has not made out a *prima facie* case of obviousness, and Claim 1 is allowable. Claims 2-4 and are claims dependent on an allowable claim and are allowable, without more. Claim 5 is a method claim having similar elements and limitations to that of Claim 1, and the Applicants respectfully submit that it is allowable for the same reasons. Independent Claims 6 and 7 recite subject matter similar to that of Claim 1 and are allowable for the same reasons.

Claim 3 was rejected under 35 U.S.C. §103 (a) as being unpatentable over Nantz, Imao and Lin, and further in view of Kokubu (US 5,500,637; "Kokubu"). The Examiner refers to Kokubu as "Pascai", which was a previously cited reference, and this is considered a typographical error for the purposes of this response.

Claim 3 is independently patentable. The Applicants respectfully submit that a *prima facie* case of obviousness has not been made out. The Examiner accepts that none of Nantz, Imao and Lin disclose the "request signal and the tire air pressure

abnormality signal are transmitted by operating a door touch switch", (Office Action, Item 4) and relies on Kokubu to remedy this deficiency. Manually operated pushbutton switches 3, 4 are located on the portable (key) unit 2, rather than on the vehicle as in the arrangement of Claim 3. The key unit 2 appears to have transmitting capability only. This is entirely different from the arrangement of Claim 3 in which, *inter alia*, a door of the vehicle comprises a door touch switch and the tire pressure abnormality signal is transmitted by actuating the door touch switch. Therefore, not all of the elements of the present Claim 3 are taught or suggested by the references and a *prima facie* case of obviousness has not been made out. Further, Claim 3 is allowable, without more, as a claim dependent on an allowable claim.

In the event that the Examiner had again intended to apply Pascai as the fourth reference in rejecting Claim 3, the Applicants reiterate the traverse made in the previous response submitted on March 21, 2005, and again set forth the response below.

Claim 3 is independently patentable. The Applicants respectfully submit that a *prima facie* case of obviousness has not been made out. The Examiner accepts that neither Nantz nor Lin disclose the "request signal and the tire air pressure abnormality signal are transmitted by operating a door touch switch (see at least columns 4-5, lines 57-25)", (Office Action, page 4) and relies on Pascai to remedy this deficiency. In the passage of Pascai cited, the manually operated pushbutton switches 114 and 116 are located on the portable unit 44. This is entirely different from the arrangement of Claim 3 in which, *inter alia*, a door of the vehicle comprises a door touch switch and the tire pressure abnormality signal is transmitted by actuating the door touch switch. Therefore, not all of the elements of Claim 3 are taught by the combination of the references, nor has the Examiner set forth a reason that it would have been obvious to combine the references, and a *prima facie* case of obviousness has not been made out.

For either of the reasons given, a *prima facie* case of obviousness has not been made out and Claim 3 is allowable.

Claim 6 was rejected under 35 U.S.C. §103 (a) as being unpatentable over Nantz and Imao and Lin. From the presentation of the reasons for rejection by the Examiner,

the Applicant has concluded that Nantz is considered the primary reference, to be modified by the two secondary references.

Claim 6 recites, *inter alia*, that the portable device is a passive keyless entry device using a request signal from the vehicle installed device and an answer signal from the portable device to the vehicle-installed device, and wherein the tire air pressure abnormality signal is transmitted along with the request signal.

The Examiner asserts that at least part of this limitation is supplied by a teaching of Imao that includes "the portable device is a passive keyless entry communication using a request signal from the vehicle-installed device to the portable device and an answer signal and an answer signal from the portable device to the vehicle installed device and wherein the tire pressure abnormality signal is transmitted along with the request signal (see at least columns 5-7, lines 19-35). (Office action, page 6). Imao is directed to a fleet management system for collecting vehicle data from a plurality of vehicles by using a portable transceiver to perform the function, and the data is subsequently unloaded from the portable receiver. (see at least columns 5-7, lines 19-35, Imao). Moreover, Imao teaches that "[w]hen the vehicle 1 is one of a fleet of vehicles such as taxis, trucks, or busses, the external communication apparatus 5 is preferably located at a fleet station or parking area" (col. 4, lines 55-59). Nothing in Imao teaches or suggests "a passive keyless entry communication" as in the arrangement of Claim 6. The Examiner acknowledges that this limitation is not taught or suggested by any of Nantz or Lin, and therefore not all of the elements and limitations of the present Claim 6 are taught or suggested by the references cited. As such, the issue of motivation to combine is moot, and the Applicants respectfully submit that a *prima facie* case of obviousness has not been made out. In the interests of economy of prosecution, the Applicants have not presented all of the arguments which may be made with respect to the rejection of Claim 6, as the reason presented is sufficient to allow the claim.

Claim 7 was rejected under 35 U.S.C. §103 (a) as being unpatentable over Nantz and Lin.

Claim 7 recites, *inter alia*, the portable device receiving the abnormality signal from the vehicle-installed device before the door lock is driven.

Nantz is directed to a system and method of controlling the operation of tire pressure sensor where the tire pressure sensors are disabled when the vehicle is unoccupied. In consequence, as taught in Nantz at col. 6, lines 49-61, "[a] user approaching a vehicle<12> carrying the passive entry device <34> causes a vehicle door to be unlocked. This i[n] turn causes controller <26> to generate a control signal <32> that is transmitted by transmitter <30> to transponders <20> in tire monitors <16>, which control signal <32> is operative to start transmission of tire pressure signals <22> by transponders <20>." From this alone, it can be seen that the primary reference teaches that the tire pressure is not monitored until the door has been unlocked. This is not the arrangement of Claim 7 where "the portable device receiving the abnormality signal from the vehicle-installed device before the door lock is driven."

The Examiner appears to suggest that the operation of the device taught by Nantz can be modified by the teachings of Lin to change the sequence of operations to that of Claim 7. However if one attempts to do so, the operation of the apparatus taught by Nantz would be changed so that the tire pressure would be monitored prior to the door being opened. That is, the tires would be monitored regardless of whether the operator was in or near the vehicle, which is directly contrary to the teachings of Nantz. A suggested combination which defeats the purpose of a primary reference is inappropriate as a combination, as the Examiner can give no reason to make such a change, except in accordance with the teachings of the present application. As such, a *prima facie* case of obviousness has not been made out and Claim 7 is allowable.

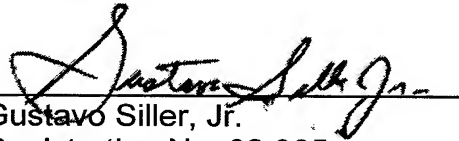
Conclusion

Claims 1-7 remain pending.

For at least the reasons given above, the Applicants respectfully submit that the pending claims are allowable.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gustavo Siller, Jr.", written over a horizontal line.

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